



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Town of Piermont
Town Office
PO Box 27, 130 Route 10
Piermont, New Hampshire 03779

Re: Piermont Wastewater Treatment Facility
NPDES Permit No. NH0101231

ADMINISTRATIVE ORDER
BY CONSENT
No. WD 05-08

A. INTRODUCTION

This Administrative Order by Consent is issued by the Department of Environmental Services, Water Division to, and with the consent of, the Town of Piermont, pursuant to RSA 485-A:22. This Administrative Order by Consent is effective upon signature by both parties.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH.
2. The Town of Piermont ("the Town") is a duly-constituted municipality of the State of New Hampshire. The Town offices have a mailing address of PO Box 27, Piermont, NH 03779-0027.

C. STATEMENTS OF FACTS AND LAW

1. Pursuant to RSA 485-A:13 and related sections, DES regulates the discharge of pollutants to surface waters under a permit system. As part of this program, the Commissioner of DES has adopted Env-Ws 401-405 relating to permits and has adopted Env-Ws 1700 to establish water quality standards for the state's waters.
2. The Town owns and operates its wastewater treatment facility located at Route 25, Piermont, NH (hereinafter "Piermont WWTF").
3. Operation of the Piermont WWTF is permitted under the terms of the federal National Pollutant Discharge Elimination System ("NPDES") permit number NH0101231, issued by the United States Environmental Protection Agency ("USEPA") to the Town on June 21, 1999. This NPDES permit was adopted as a State discharge permit under RSA 485-A:13, I(a). The federal and state permits are collectively referred to hereinafter as the "NPDES Permit".
4. The NPDES Permit authorizes the Town to discharge treated wastewater from the Piermont WWTF to Eastman Brook, subject to specified effluent limitations, monitoring requirements, and other conditions.

5. *Escherichia coli* bacteria ("E. coli"), pH, total residual chlorine ("TRC"), and total suspended solids ("TSS") are parameters with limitations specified in the NPDES Permit.

6. Pursuant to Env-C 603.05(e), DES can fine the Town for failing to comply with each condition or requirement of the state surface water discharge permit in the amount of \$1,000 per calendar month, for any month or portion thereof that the condition or requirement is not met.

7. NPDES Permit condition Part I.A.1. requires that E. coli levels in the Piermont WWTF effluent not exceed 406 colonies per 100 milliliters as a maximum daily count, and 126 colonies per 100 milliliters as a monthly geometric mean count.

8. For the monitoring period July 1999 through December 2004, the Town violated the E. coli maximum daily limit during 4 months and the monthly geometric mean limit during 1 month.

9. In accordance with Env-C 603.05(e), the E. coli violations result in a potential fine of \$5,000.

10. NPDES Permit condition Part I.A.1 requires that the Piermont WWTF effluent not exhibit a daily minimum pH below 6.5 standard units.

11. For the monitoring period July 1999 through December 2004, the Town violated the daily minimum pH limit during 10 months.

12. In accordance with Env-C 603.05(e), the pH violations result in a potential fine of \$10,000.

13. NPDES Permit condition Part I.A.1. requires that the TRC levels in the Piermont WWTF effluent not exceed a daily maximum of 1.0 mg/l.

14. For the monitoring period July 1999 through December 2004, the Town violated the daily maximum TRC limit during 13 months.

15. In accordance with Env-C 603.05(e), the TRC violations result in a potential fine of \$13,000.

16. NPDES Permit condition Part I.A.1. requires that the TSS concentration levels in the Piermont WWTF effluent not exceed a monthly average of 30 mg/l, a weekly average of 45 mg/l, and a daily maximum of 50 mg/l.

17. For the monitoring period July 1999 through December 2004, the Town violated the monthly average TSS concentration limit during 22 months, the weekly average TSS concentration limit during 19 months, and the daily maximum TSS concentration limit during 14 months.

18. In accordance with Env-C 603.05(e), the TSS concentration limits violations result in a potential fine of \$55,000.

19. NPDES Permit condition Part I.A.1. requires that the TSS load levels in the Piermont WWTF effluent not exceed a monthly average of 1.75 lbs/day, a weekly average of 2.6 lbs/day, and a daily maximum of 2.9 lbs/day.

20. For the monitoring period July 1999 through December 2004, the Town violated the monthly average TSS load limit during 6 months, the weekly average TSS load limit during 3 months, and the daily maximum TSS load limit during 2 months.

21. In accordance with Env-C 603.05(e), the TSS load limits violations result in a potential fine of \$11,000.

22. In accordance with Env-C 603.05(e), the E. coli, pH, TRC and TSS permit limits violations at the Piermont WWTF for the monitoring period July 1999 through December 2004 result in potential fines of \$94,000.

D. DETERMINATION OF VIOLATIONS

1. The Town violated its NPDES Permit Part I.A.1. by discharging wastewater from its WWTF, between July 1999 and December 2004, that did not meet E. coli limits.
2. The Town violated its NPDES Permit Part I.A.1. by discharging wastewater from its WWTF, between July 1999 and December 2004, that did not meet pH limits.
3. The Town violated its NPDES Permit Part I.A.1. by discharging wastewater from its WWTF, between July 1999 and December 2004, that did not meet TRC limits.
4. The Town violated its NPDES Permit Part I.A.1. by discharging wastewater from its WWTF, between July 1999 and December 2004, that did not meet TSS limits.

E. ORDER

Based on the above findings, DES hereby orders the Town, and the Town agrees, to undertake and complete the following actions in accordance with the time schedules specified:

1. By **May 9, 2005**, begin design of the subsurface disposal system.
2. By **August 5, 2005**, submit final design drawings to DES.
3. By **September 19, 2005**, advertise for bids.
4. By **June 30, 2006**, complete construction and attain full operation.
5. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order by Consent to DES as follows:

Stergios K. Spanos
DES Water Division
PO Box 95
Concord, NH 03302-0095

copy to: Joy Hilton
USEPA Region 1/Water Technical Unit
1 Congress St., Suite 1100
Boston, MA 02114-2023

F. STIPULATED PENALTIES

1. In accordance with Env-C 603.08(a), the Town agrees to pay \$2,000 per calendar month or portion thereof that compliance is not achieved after the deadline specified in the Order for each provision of the Order not complied with. Piermont must also provide the information as described in Attachment 1, at least 30 days prior to any deadline, if the Town anticipates exceeding the deadline.
2. The Town agrees to pay \$200 for each sample that is not collected at the frequency specified in the NPDES Permit. Payment shall be due by the last day of the month following the month in which the missed sampling occurs. Payment shall be due without further notice from DES. If the payment is not postmarked by the last day of the month following the month in which the missed sampling occurs, the stipulated penalty will increase to \$1,000.00 per sample.
3. The Town agrees to pay \$100 for each violation of an Escherichia coli bacteria, pH, TRC, or TSS limit in the NPDES Permit. Payment shall be due by the last day of the month following the month in which a violation occurs. Payment shall be due without further notice from DES. If the payment is not postmarked by the last day of the month following the month in which the violation occurs, the stipulated penalty will increase to \$500.00 per violation.
4. If stipulated penalties become due, payment shall be submitted to DES in the form of a certified check made payable to the "New Hampshire Water Pollution Control Association" ("NHWPCA"). Penalty proceeds will be used to purchase equipment for loan to wastewater treatment facilities for compliance assistance and trouble-shooting, and for developing and improving training programs for wastewater treatment plant operators. The payment shall be mailed to NHDES Water Division, Wastewater Engineering Bureau, Attn: Stergios K. Spanos, P.E., PO Box 95, Concord, NH 03302-0095, along with a cover letter identifying the violations, and a copy of the monthly discharge monitoring reports (DMRs) for the month(s) in which the violations occurred.
5. Contingent on the Town's cooperation and efforts to comply with this Order, DES is not seeking the \$94,000 penalty, at this time, for the violations cited in section C of this Order. However, nothing in this agreement shall be construed to limit DES' ability to take enforcement against the Town for non-compliance, including without limitation, referral to the New Hampshire Department of Justice.
6. The Town shall continuously and diligently pursue implementation of the actions required in Section E above. The Town shall immediately notify DES of any delays in meeting the deadlines specified in Section E. Reasonable changes to the implementation schedule shall not be unreasonably withheld by DES. If the Town misses a deadline due to circumstances beyond the Town's control, penalties will not become due relative to that specific deadline. Failure to secure funding for the required actions or failure of a consultant to meet deadlines shall not be construed as beyond the Town's control.

G. CONSENT AND WAIVER OF APPEAL

1. By execution of this Administrative Order by Consent, the Town agrees that this Order shall apply to and be binding upon the Town, its officers, directors, successors and assigns, and agrees that this Order may be entered and enforced by a court of competent jurisdiction.

2. By execution of this Administrative Order by Consent, the Town waives any right to appeal this Administrative Order by Consent provided by statute, rule, or common law, including without limitation the right to appeal to the Water Council, and waives any right to object to the entry and enforcement of this order by a court of competent jurisdiction.

Town of Piermont

COPY
By: Jean D. Daley, Chairman
Duly Authorized

4-11-05
Date

NH Department of Environmental Services

COPY
Harry T. Stewart, P.E., Director
Water Division

4/12/05
Date

COPY
Michael P. Nolin, Commissioner

04 25 05
Date

cc: Gretchen R. Hamel, Legal Unit Administrator
Public Information Officer, DES PIP Office
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
Piermont, Town Manager
Piermont, Board of Selectmen
Stergios Spanos, DES
Joy Hilton, USEPA

Attachment 1

DES WWEB COMPLIANCE SECTION POLICY ON REQUESTING AN EXTENSION OF TIME ON ENFORCEMENT ACTIONS

To request an extension of time for modifying compliance dates in this Administrative Order by Consent, the following information must be supplied in a cover letter and submitted as soon as the permittee is aware of the need, but no less than 30 days prior to the deadline proposed to be changed. Attachments may be used (and are encouraged) but they should not be used to replace the information requested in the cover letter. The attachments should supplement this information.

1. Explain the requested changes to the existing Order. Be very specific. For example, if you are going to propose a change in a date in the Order, submit the proposed date in the cover letter.
2. Discuss who developed the original dates and how these dates were selected. Were other affected parties, such as suppliers and contractors consulted? If so, list them and summarize their comments. If not, explain why not?
3. List any other extensions requested? Explain why these extensions were needed? Were the extensions granted? Explain the effect of these other extension requests on the present request?
4. If the dates requested were used in the original Order, explain in detail why these requested changes could not have been anticipated and addressed when the dates were proposed.
5. If violations of the NPDES permit or NH Water Quality Standards are anticipated during the requested extension period, explain interim measures that will be implemented to minimize or eliminate the potential violations.
6. Explain what effect on human health or the environment these changes would have. For example, if the request was to postpone the installation of dechlorination equipment, describe the effects on the aquatic life. If there is a deleterious effect on human health and the environment, explain interim measures that will be used to minimize the effect.
7. Explain what could cause the need for any other extension requests in the future and what is presently being done to avoid them.
8. Submit this request to DES, with a copy to USEPA at the following addresses:

Stergios K. Spanos
DES Water Division
PO Box 95
Concord, NH 03302-0095

Joy Hilton
USEPA Region 1/Water Technical Unit
1 Congress St., Suite 100
Boston, MA 02114-2023